

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 HOPLAND BAND OF POMO INDIANS ET
12 AL.,

No. C 12-00556 CRB

ORDER STAYING PROCEEDINGS

13 Plaintiffs,

14 v.

15 SALAZAR ET AL.,

16 Defendants.
_____ /

17 This Court ordered both sides to show cause why proceedings should not be stayed
18 pending the resolution of a similar case currently on appeal to the Ninth Circuit, see Los
19 Coyotes Band of Cahuilla & Cupeno Indians v. Salazar, No. 10CV1448 AJB (NLS), 2011
20 U.S. Dist. LEXIS 125213 (S.D. Cal. Oct. 28, 2011), appeal docketed, No. 11-57222 (9th Cir.
21 Dec. 22, 2011). See dkt. 44. Both sides oppose a stay, arguing in their responses (dkt. 45,
22 46) that this case presents issues that will not be resolved by the Ninth Circuit in Los
23 Coyotes. For example, the plaintiffs here seek remedies not pressed by the plaintiffs in Los
24 Coyotes, and the defendant here rejected a separate proposal for a “zero funding” contract
25 that was not at issue in Los Coyotes.


26 The question is not whether the Ninth Circuit’s resolution of Los Coyotes will entirely
27 dispose of this case; rather, it is whether it would be a waste of judicial resources to rule on
28 the case-dispositive cross-motions where issues central to this case await definitive resolution
in Los Coyotes and their outcome could color the analysis—and in some cases render entirely

1 moot—the resolution of the issues unique to this case. If, for example, Los Coyotes makes
2 clear that Defendant’s rejection of the proposed funded contracts was lawful under the
3 ISDEAA, then the remedies available to plaintiffs for an unlawful rejection would be beside
4 the point.

5 Accordingly, the Court ORDERS that all proceedings in this case be STAYED for 90
6 days pending the Ninth Circuit’s anticipated resolution of Los Coyotes, which as the Court
7 previously noted, has already been fully briefed on appeal. The hearing on the pending
8 cross-motions for summary judgment currently set for October 26, 2012, is VACATED and
9 reset for January 25, 2012, at 10:00 a.m. It is further ORDERED that the parties notify this
10 Court by letter if and when Los Coyotes is decided before that time. If the Ninth Circuit has
11 not decided Los Coyotes by the January hearing date set in this Order, the Court will
12 consider ruling on the pending motions without the benefit of that decision.

13 **IT IS SO ORDERED.**

14
15
16 Dated: October 25, 2012



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE